

HOUSE BILL REPORT

SB 5453

As Reported by House Committee On:
Judiciary

Title: An act relating to the relocation of a child in a domestic relations matter.

Brief Description: Defining "principal residence" for the purpose of relocation of a child.

Sponsors: Senators Kastama and Franklin.

Brief History:

Committee Activity:

Judiciary: 3/23/09, 3/26/09 [DPA].

**Brief Summary of Bill
(As Amended by House)**

- Defines "principal residence" for the purposes of the relocation act to mean any residence where the child spends a significant number of school nights, including residences shared equally by the child.
- Provides that the rebuttable presumption that the intended relocation of the child will be permitted does not apply when the child has substantially equal residential time with the parties.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Trudes Tango (786-7384)

Background:

In dissolution cases in which minor children are involved, the parents must establish a parenting plan for the care of their minor children. The parenting plan must include an allocation of decision-making authority to one or both parents. The parenting plan must also establish the child's residential time with each parent. The court may order that a child

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frequently alternate residences between the parents for brief and substantially equal intervals of time if it is in the best interest of the child.

Under the Relocation Act (the Act), when a person with whom the child resides a majority of the time intends to relocate, he or she must notify every other person with residential time or visitation with the child. "Relocate" means a change in the principal residence either permanently or for a protracted period of time.

The Act establishes procedures for the other persons with residential time or visitation to object to the relocation and creates a rebuttal presumption that relocation will be permitted unless the objecting party demonstrates that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating parent.

In a recent unpublished Washington Court of Appeals case, *In Re the Marriage of Spring*, the court ruled that a child does not have a principal residence when the child resides equally with both parents; therefore the Act did not apply when one parent relocated.

Summary of Amended Bill:

For the purposes of the Act, "principal residence" is defined to mean any residence where the child spends a significant number of school nights, including those residences shared equally by the child. It does not include residences where the child may spend every other weekend, holidays, or summer vacations. The rebuttable presumption that relocation will be permitted does not apply when the child, under a court order, has substantially equal residential time with the person proposing the relocation and another person entitled to residential time with the child.

Amended Bill Compared to Original Bill:

The amendment provides that the rebuttable presumption does not apply when the child has substantially equal residential time with the parties.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill clarifies that parents with equal time with the child are governed by the Act. Parenting plans give children stability, but courts like to have judicial discretion and do not always follow the legislative intent of the law. When the Act was passed in 2000 there

was an understanding and an agreement between stakeholders. It was agreed that a parent with equal time with the child would be considered the principal residence of the child. This bill restores the law to what everyone thought it was. The number of parenting plans that provide for shared parenting is increasing.

(With concerns) The floor speech that was made when the Act was debated and passed by the House in 2000 shows that the notice provision was intended to apply to parents with equal time with the child but the rebuttable presumption does not. That should be clarified in the bill.

(Opposed) None.

Persons Testifying: (In support) David Spring; and Bill Harrington.

(With concerns) Rick Bartholomen, Washington State Bar Association.

(Opposed) None.

Persons Signed In To Testify But Not Testifying: None.